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March 30, 2001

Magalie Roman Salas, Esq.
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: **RM-10077**/Request Amendment of the Commission's Rules to Permit Use of Any
Certified Public Safety Frequency Coordinator for Channels Below 470 MHz by the
Association of Public Safety Communications Officials – International (APCO),
filed February 21, 2001 and noticed in Report No. 2469 released March 1, 2001


Dear Ms. Salas:

Enclosed herein are a duplicate original and four copies of a letter that has been
sent to the Chief of the Wireless Telecommunications Bureau. This letter to Mr. Sugrue
is to serve as the Com-Net Ericsson Critical Radio Systems, Inc. comments in the above
referenced proceeding.

Also enclosed is a proof of service form indicating service on the petitioner's
attorney.

If there are any questions, please do not hesitate to contact me. I can be reached at
(804) 385-2465.

Sincerely,


Robert J. Speidel, Esq.
Manager, Regulatory Policy

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LMABCDE



March 30, 2001

Thomas J. Sugrue, Esq.
Chief, Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

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RE: **RM-10077**, Request Amendment of the Commission's Rules to Permit Use of Any Certified Public Safety Frequency Coordinator for Channels Below 470 MHz by the Association of Public Safety Communications Officials – International (APCO), filed February 21, 2001 and noticed in Report No. 2469 released March 1, 2001

Dear Mr. Sugrue:

Com-Net Ericsson Critical Radio Systems, Inc., (Com-Net) is pleased to submit these comments in the above referenced rulemaking.

Normally, Com-Net would not comment in matters of this nature. However, Com-Net recently supported the request of The International Association of Fire Chiefs, Inc. (IAFC) and The International Municipal Signal Association (IMSA); and the request of the American Association of State Highway Transportation Officials (AASHTO) for certification to provide frequency coordination for 800 MHz and 900 MHz Private Land Mobile Radio Service frequencies¹. Com-Net believes the circumstances associated with the APCO request herein are substantially different from those associated with the IAFC/IMSA and AASHTO requests. Com-Net wants to specifically state that the views expressed in those letters of support are not applicable to the APCO request in this proceeding. As a first matter, Com-Net believes the differences in circumstances are a sufficient basis for denying the APCO recommendation² to consolidate the IAFC/IMSA, AASHTO and APCO requests.

In this rulemaking, APCO asks the Commission overrule itself and abolish the exclusive coordination responsibility that was retained in the "Refarming"³ proceeding for those channels which had been previously assigned to specific public safety services. In the "Refarming" proceeding the Commission had good reason to retain exclusive coordinator responsibility. The Commission at that time noted that "...preserving the jurisdiction of the individual coordinators over current spectrum, while expanding access to Local Government frequencies, will help ensure consistency with local, regional and

¹ By letters dated February 20, 2001 to Magalie Roman Salas, Secretary, Federal Communications Commission, Com-Net supported the request of IAFC/IMSA referenced in DA 01-152, and the request of AASHTO referenced in DA 01-151.

² See footnote 1 of the Petition for Rulemaking titled "Modification of Section 90.20(c) of the Commission's Rules to Permit Use of Any Certified Public Safety Frequency Coordinator for Channels below 470 MHz," filed February 21, 2001, by APCO (APCO petition)

³ Replacement of Part 90 by Part 88 to Revise the Private Mobile Radio Service, PR 92-235 (Refarming)

state public safety plans.”⁴ In the spectrum below 470 MHz, as opposed to the 800 MHz spectrum, the plans the Commission was referring to, are not a unitary product of the joint efforts of all of the certified public safety coordinators. Rather, such plans are more likely the product of a specific public frequency coordinator for a specific Public Safety Radio Service. In 1997 the Commission believed specific public safety coordinators were not necessarily proficient in the intricacies of the plans established in the other Public Safety Radio Services, and the Commission was concerned that failure to retain exclusive coordination could unwittingly result in one public safety service gaining access to a channel which had been allocated for specific use in accordance with another public safety service’s plan.

Com-Net believes proper consideration of the current APCO request necessarily involves proof that things have changed between 1997 and now to the extent that the Commission’s 1997 concerns are no longer valid. Alternatively, proof that the Commission was wrong in 1997 when it retained some exclusive frequency coordination jurisdiction in the Public Safety Radio Service might also justify granting the APCO requested modification. The burden to prove either a sufficient change in circumstances justifying the Commission overruling itself or to prove an error on the part of the Commission in 1997 is clearly on the proponent, APCO. In this particular case, there is little doubt that the petition filed by APCO on February 21, 2001 fails to prove either Commission error or changes that would justify the requested change.

APCO alleges in its petition that “APCO is well aware of the specific *needs* (emphasis added) of different public safety licensees, and has years of experience coordinating channels for virtually every type of public safety agency.”⁵ However, nothing in the APCO petition offers any proof that APCO, as a certified public safety frequency coordinator, has become “...proficient in the intricacies of the plans established in the other Public Safety Radio Services.”⁶ Additionally, the APCO petition provides no evidence that the other certified public safety frequency coordinators have become proficient in the intricacies of the plans established under APCO tutelage for the former Police Radio Service frequencies. Everyone should remember that if the APCO request is granted these other coordinators will be able coordinate former Police Radio Service frequencies, and such coordinations could be totally contrary to any plans and policies established with the assistance of APCO. The Commission must, and APCO should, be concerned about the negative impact to former Police Radio Service plans that granting the APCO request could generate.

APCO, in its petition, appears to ask the Commission to accept the proposition that because some former Police Radio Service eligibles have now obtained licenses for frequencies in the Public Safety pool from other coordinators, makes APCO well aware of the specific needs of different public safety licensees. It is reasonable to expect that APCO may be aware of the specific needs of specific public safety pool licensees who have obtained coordination services from APCO. However, it is unreasonable to believe

⁴ See, Replacement of Part 90 by Part 88 to Revise the Private Mobile Radio Service, Second Report and Order, 12 FCC Rcd 14307 (1997) at page 14328. Also at fn. 96 the Commission noted “Each public safety coordinator *must* (emphasis added) be knowledgeable about the *specific* (emphasis added) plans that have been established in the radio service in which they coordinate.

⁵ APCO petition at page 3.

⁶ See fn. 4, *supra*.

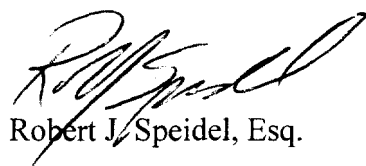
doing such coordinations would make APCO proficient in the intricacies of the plans established in the all of the other Public Safety Radio Services.

The final analysis is that nothing in the APCO petition can be construed as proof that there has been a sufficient change in circumstances justifying the Commission overruling its 1997 decision. At best this APCO request for changes to the frequency coordination system is premature.

Since the other basis to justify the requested change would be a showing of error on the part of the Commission, it should also be noted that the APCO petition does not allege any error on the part of the Commission in adopting the 1997 decision. Even if such error was alleged, there is little doubt such an allegation could form the basis for action due to its excessively untimely nature.

Therefore, Com-Net does not believe APCO has met the burden of proof necessary to grant the APCO request. The Commission should deny the APCO request on the basis there still is no proof that *all* of the frequency coordinators are proficient in the intricacies of *all* of the plans established for *all* of the other Public Safety Radio Services in the frequencies below 470 MHz.

Respectfully submitted,



Robert J. Speidel, Esq.

cc: Magalie Roman Salas, Esq. (Duplicate Original & 5 copies)
D'wana Terry, Esq.
Jeanne Kowalski, Esq.
Robert M. Gurss, Esq.